

Conference Report

8th Annual Conference on Energy Arbitration and Dispute Resolution in the Middle East and Africa

Day One

Opening Comments

Middle East - Continuity or Change - Sir William Patey

Sir William Patey opened the conference with a comprehensive overview of the Middle East's geopolitical landscape, emphasising the themes of continuity and change. He framed geopolitical risk as an enduring and unmitigable reality in the region, one that businesses must understand and adapt to, rather than seek to eliminate.

He highlighted the paradox of stability in parts of the Middle East, such as some Gulf states, coexisting with persistent instability elsewhere, notably in conflict zones like Gaza. Drawing attention to the region's deep interconnectivity, he noted how local conflicts, such as the situation in Gaza, have global repercussions, including disruptions in Red Sea shipping due to Houthi activity.

Sir William traced a pattern of decade-defining events in the region's modern history, from the Suez Crisis to the October 2023 attacks, asserting these moments shape the trajectory of the following decade. He provided insights on Palestine, Saudi Arabia under MBS, Iran's isolation, and the shifting stance of the US, with troop withdrawals contrasted by the maintenance of strategic bases.

Commenting on Israel, he suggested Prime Minister Netanyahu is likely to avoid direct conflict with Iran, and noted the desire for de-escalation in Yemen. The UK's policy continuity in the region was emphasized, alongside the forthcoming UK-GCC free trade agreement.

Sir William concluded by reflecting on opportunities for regional transformation, particularly in Syria with sanctions relief. Stability in Iraq, Syria, Lebanon, and Palestine is key, and positive integration of Iran could redefine the region's future. He urged the audience to remain alert to the region's unpredictability: to expect the unexpected.

Keynote

The UAE's Role in Resolving MENA Energy Disputes at the Intersection of Civil and Common Law – Dr Mahmood Hussain

In a compelling keynote address, Dr Mahmood Hussain, a leading UAE-based dispute resolution lawyer and founder of Mahmood Hussain Law Firm, presented a detailed view on how traditional energy systems in the Middle East are adapting to changing legal, geopolitical, and environmental conditions. His remarks reflected both regional insights and international legal dynamics, offering a grounded analysis of energy in the region.

Dr Hussain opened by examining the gradual shift from fossil fuels to renewable energy. While oil and gas still dominate the region's energy mix, global climate targets, regulatory changes, and investor demands are driving Middle Eastern states to reassess their long-term energy strategies. This shift requires legal systems to evolve in parallel, accommodating new types of projects and obligations.

He highlighted that geopolitical instability remains one of the most significant challenges facing the Middle Eastern energy sector. Lawyers working in this space must do more than draft agreements—they must understand and anticipate the impact of political events, state actions, and sovereign interests. These considerations are essential when dealing with government-linked entities and cross-border investments.

Despite these challenges, Dr Hussain observed that the region's energy supply chain has remained relatively resilient. Countries such as Saudi Arabia continue to play a critical role in global energy supply, even during times of regional disruption. This resilience reflects a combination of strategic infrastructure, established partnerships, and government-backed energy policies.

A central theme of the address was the concept of energy sovereignty. Dr Hussain explained that many Middle Eastern states assert strong domestic control over natural resources. In some cases, this is embedded in constitutional or statutory provisions. This emphasis on national ownership shapes the way energy contracts are structured and how disputes are handled. Ensuring energy resources remain in national hands is often a top legal priority.

Arbitration continues to be the preferred method of resolving energy disputes in the region. The International Chamber of Commerce is widely used, although Dr Hussain noted a persistent lack of trust between international investors and regional institutions. As a result, there is a growing push for arbitration to be seated within the host country. Saudi Arabia's promotion of the Saudi Center for Commercial Arbitration is one example of this policy in action, part of a wider effort to strengthen domestic legal infrastructure.

Dr Hussain also identified significant legal reforms in the region. Saudi Arabia has recently closed older arbitral centres to consolidate its arbitration framework under new state-sponsored institutions. Iraq's 2021 accession to the New York Convention has enhanced the enforceability of foreign arbitral awards, signalling a move toward international norms.

Environmental concerns are also rising in prominence. Regulatory developments, ESG obligations, and investor pressure are driving an increase in environmental disputes within energy arbitration. Finally, Dr Hussain concluded by noting that legal reform in the Middle East is being propelled by fast-moving geopolitical developments. From sanctions to price fluctuations and regional tensions, these forces are directly shaping the legal architecture of the energy sector.

Lecture

Fission and Friction: New Nuclear and Data Centre Co-location Disputes in the Middle East and Africa - Dr Glenn R. George

Dr Glenn R. George, an advisor and expert witness in the global energy sector, delivered a lecture exploring the escalating dynamics of "fission" — the expansion of nuclear power — and "friction" — the disputes arising from the colossal electricity demands of data centres, particularly in the Middle East and Africa. Drawing on his engineering and economics background, Dr George highlighted a critical confluence already generating contention.

The global surge in electricity demand is overwhelmingly driven by AI advancements and cloud computing needs. A single AI search can consume power comparable to an old lightbulb for 20 minutes, a demand magnified by hundreds of millions of global users. Data centre electricity demand is projected to double, even triple or quadruple, by 2030. Both Africa and the Middle East are experiencing dramatic data centre growth, with significant investments and emerging hubs in South Africa, Kenya, Nigeria, Israel, and the UAE.

This immense, continuous power requirement has sparked renewed interest in nuclear energy. Nuclear power plants are uniquely suited to meet this demand, offering large quantities of dispatchable, zero carbon electricity around the clock. Unlike intermittent renewables, nuclear provides the constant, reliable clean power hyperscalers seek.

However, this promising co-location is not without challenges, leading to significant "friction." Emerging arrangements, such as Power Purchase Agreements (PPAs) and direct co-location, are prone to various disputes. These include perennial issues like construction delays, cost overruns, and financing complexities for new nuclear projects. Additionally, concerns arise regarding resource adequacy, shared infrastructure costs (like transmission lines), regulatory compliance, technology integration, and crucially, water access for cooling.

Dr George highlighted that arbitral institutions are evolving to address these complex energy transition disputes, offering flexible and confidential resolution mechanisms. The lecture underscored that while the synergy between nuclear and data centres offers a pathway to sustainable growth, navigating the inherent disputes will be key to unlocking their full potential in these rapidly developing regions.

Panel Session 1

Clean Energy – the move to renewables and its impact on energy disputes

Andrew Mackenzie – moderator

Clarissa Coleman

Daniel Greineder

Sean Gibbs

Naomi Briercliffe

This session offered a timely and in-depth exploration of the legal, commercial, and geopolitical challenges surrounding the clean energy transition in the Middle East and Africa. With contributions from Clarissa Coleman (DAC Beachcroft), Sean Gibbs (Hanscomb Intercontinental), Daniel Greineder (Albertson Solicitors), and Naomi Briercliffe (Squire Patton Boggs), the panel examined how the rapid expansion of solar, wind, and other renewable projects is reshaping investment strategies and generating a new wave of energy disputes.

The discussion began by recognising the surge in clean energy investment across the region, driven by decarbonisation goals, global climate commitments, and the rising demand for alternative energy sources. The Middle East has emerged as a major investor in African renewables, with sovereign wealth funds and state-owned enterprises supporting large-scale solar and green hydrogen projects. Naomi Briercliffe highlighted the UAE's position as the fourth-largest investor in African energy, a trend reshaping the disputes landscape, especially where sovereign entities are involved.

Despite this momentum, panellists warned that growth will not be without complications. Political instability, regulatory uncertainty, and evolving local governance make the legal environment challenging. Daniel Greineder noted that the region contains all the ingredients for significant arbitration activity—large infrastructure projects, volatile policy conditions, and overlapping strategic interests. He predicted a growing role for traditional arbitration models, with institutions adapting to handle complex evidence and cross-border enforcement.

The panel identified common types of disputes: project execution issues, technology challenges, tariff disagreements, and shareholder conflicts. Clarissa Coleman observed that renewable technologies, particularly solar and wind, face specific challenges in arid climates, where assumptions based on European conditions often fail. These misalignments can lead to contractual breakdowns and formal disputes.

Another focus was the evolving landscape of dispute resolution forums. While international centres such as the ICC and LCIA remain prominent, there is increasing use of regional institutions. Coleman pointed to rising interest in centres located in Mauritius, Abu Dhabi, Nairobi, and Cairo. This shift reflects a broader trend toward regionalism, as investors seek venues closer to the location of their investments. However, the capacity and competitiveness of some smaller centres remain under scrutiny.

Interestingly, Naomi Briercliffe noted that many disputes are not proceeding to full arbitration. Instead, arbitration is often used strategically to gain leverage in negotiations. If a commercial

agreement can still be reached, parties often prefer settlement over pursuing a final award, reflecting a strong culture of commercial pragmatism.

Contract design and risk allocation were also emphasised. While standard models like EPC contracts and IPP frameworks are common, they must be adapted to the specific context of each project. The panel questioned the use of force majeure clauses in regions where disruptions are foreseeable, and highlighted the complexity arising from different legal interpretations of such clauses.

Finally, the panel stressed the importance of securing a social licence to operate. Failure to engage local communities can result in land use disputes, compensation claims, or environmental objections. Often driven by social and political dynamics that fall outside legal remedies.

In summary, the panel illustrated a region full of clean energy opportunity, but one that demands careful legal navigation and adaptive dispute resolution strategies.

Panel Session 2

Regulatory reform, shifting investment laws and the impact of tariffs

Craig Tevendale – moderator

Enikő Horváth

Jacob Grierson

Jonathan Blaney

Camilla Godman

Moderated by Craig Tevendale of Herbert Smith Freehills, this panel examined the legal and regulatory transformations affecting energy investments and arbitration practices across the Middle East and Africa. The discussion featured a multidisciplinary group of experts: Dr Eniko Horvath, Camilla Godman, Jonathan Blaney, and Jacob Grierson.

Dr Horvath opened with a policy-level view of energy reforms, identifying security, affordability, and sustainability as the main pillars shaping energy regulations. She noted how the EU's pledge to end fossil fuel imports from Russia by 2027 followed the 2022 disruption in pipeline gas supplies. In the Middle East, security concerns are more infrastructure-driven. Horvath referenced the Iraq-Turkey pipeline arbitration as a case in point, with disputes over control between Iraq's central government and the Kurdistan Regional Government.

She also discussed the legal impact of expanding renewables and nuclear energy. Countries like Saudi Arabia, Qatar, Jordan, and the UAE have enacted new investment laws to attract capital. Meanwhile, Europe's windfall taxes on energy profits, introduced to address soaring prices, could prompt future investor-state arbitration. Horvath also highlighted the EU's carbon border adjustment mechanism, warning that its compliance requirements for non-EU exporters may create disputes in global trade law.

Jonathan Blaney spoke on financial and technological shifts. He noted that solar and wind projects are now considered “bankable” due to standardised EPC and IPP contracts that distribute risk transparently. In contrast, hydrogen remains a high-risk sector due to untested technology and uncertain returns. He cited Saudi Arabia’s Helios project as emblematic of these challenges.

Blaney then turned to nuclear energy. He noted the UAE’s operational nuclear plant, Egypt and Turkey’s development progress, and Saudi Arabia’s growing interest—shaped by geopolitical competition between the United States and China. He emphasised supply chain risks, particularly in uranium enrichment, where reduced Russian influence is reshaping global dynamics.

Camilla Godman highlighted Omni Bridgeway’s extensive database of funding applications, particularly in Africa and the Middle East, which enables close monitoring of energy disputes during the renewable transition. She outlined common disputes, including subsidy withdrawals, legal uncertainty around carbon credits, and grid connection issues.

Godman stressed that third-party funders prefer commercial arbitration under ICC or LCIA rules due to speed, enforceability, and legal clarity. Funding decisions hinge on recoverability and economic value, with many claims settling below 50% of the original amount. Funders remain cautious in areas like carbon credits and hydrogen due to legal uncertainty. Chinese EPC contractors were noted as offering integrated solutions that reduce risk and enhance competitiveness in large-scale projects.

The panel explored how countries, especially in Africa, are moving away from multilateral investment protection in favor of national investment laws, affecting dispute resolution and investment decisions. Jacob Grierson highlighted a trend toward localisation, citing Tanzania as an example where disputes are increasingly handled by local institutions. This shift stems from states’ frequent losses in international arbitration, inadequate representation of local law, and public distrust in opaque agreements. Kenya’s forced renegotiation of power purchase agreements illustrated how political intervention can trigger arbitration. Grierson also stressed the rising use of Host Government Agreements for tailored investor protection. He noted Saudi Arabia’s 2023 legal reforms aimed at predictability, though uncertainty remains around their practical application in disputes.

The panel examined the applicability of investment arbitration to tariffs used as customs duties, noting that most agreements exclude tax measures, limiting available remedies. They highlighted the significance of how investment is defined and contrasted civil and common law responses to economic shifts. The discussion reflected the broader theme of balancing regulatory reform with investor protection in the evolving landscape of investment arbitration.

Lecture

Behind the Claim What Really Causes Energy Disputes in the Middle East - Daniel Correa

This session delivered an in-depth examination of how technical and operational failures in energy projects can lead to serious disputes and arbitration. The lecture was led by Daniel Correa, founding managing director of DAC Consulting Services, who has over 20 years of experience and has served as an expert witness in major arbitration cases worldwide.

Correa began by discussing the rapid transformation of the energy sector in the Middle East, particularly under Saudi Arabia's Vision 2030, with projected infrastructure and energy investments reaching \$900 billion. He noted that the pressure to deliver large-scale projects quickly often leads to poor coordination between design, engineering, and on-site execution. Problems such as delayed geotechnical analyses, inappropriate equipment for local conditions, and last-minute design changes frequently result in costly delays and disputes.

He cited technical failures common in renewable energy projects, including dust ingress in solar panels, overheating cables, turbine misalignment, and inverter breakdowns. These issues, especially in desert environments, stem from inadequate environmental planning and can halt entire operations. Turbines, in particular, require growing expertise due to their critical function and vulnerability to failure.

Correa also highlighted disputes arising during project handover, where delays in pre-commissioning and incomplete documentation are used to block operational transfer and withhold performance payments, leading to arbitration.

He stressed that most disputes are rooted in preventable causes: late design changes, poor supply planning, weak site investigations, and lack of critical path analysis. He advocated for early technical monitoring, expert-led evaluations, and pre-dispute data collection to reduce arbitration risks.

Correa concluded that forensic engineering and proactive project oversight not only improve delivery timelines but also serve as crucial tools in preventing and resolving disputes effectively.

Panel Session 3

Resource Nationalism and the protection of investors – State owned enterprises and sovereign immunity

Jean-Christophe Honlet – moderator

Jadranka Jakovic

Momoh Kadiri

Isabel Fernandez de la Cuesta

Agis Georgiades

This panel, moderated by Jean-Christophe Honlet, featured contributions from Jadranka Jakovic, Independent Arbitrator and Counsel based in London; Momoh Kadiri, Managing Partner at Mitchell Simmonds; Isabel Fernandez de la Cuesta, International Arbitrator based in New York City; and Agis Georgiades, Head of International Disputes at CGA in Cyprus.

The discussion focused on the evolving dynamics of resource nationalism, strategies for investor protection, and legal challenges related to state-owned enterprises and sovereign immunity. It was structured into three segments: defining resource nationalism, investor response strategies, and legal issues involving state-owned enterprises and sovereign immunity.

In the first segment, the panellists examined the meaning and application of "resource nationalism" in Africa and the Middle East. Momoh Kadiri noted that what governments often view as the legitimate exercise of sovereign regulatory power, investors may perceive as nationalisation. He pointed to recent examples in Tanzania, Guinea, and Niger where governments have revoked licences, increased royalty demands, mandated local processing, or expanded state participation in projects. While some of these measures appear extreme, others are part of a legitimate effort to enhance national benefit from natural resources, especially in the context of energy transition and growing global demand for strategic minerals.

The second segment focused on how investors can safeguard their interests. Isabel Fernandez de la Cuesta stressed the role of Bilateral Investment Treaties (BITs) and Investment Agreements, which offer protections such as fair and equitable treatment, full protection and security, and access to international arbitration. However, she cautioned that restructuring an investment to fall under the protection of a BIT after a dispute arises may be seen as "treaty shopping" and could be rejected. Jadranka Jakovic then added that new-generation treaties clarify acceptable restructuring, reflecting evolving international jurisprudence. In addition to BITs, some investors rely on Investment Agreements with host states or domestic investment laws, such as Nigeria's NIPC Act or Ghana's GIPC Act, which can include arbitration clauses.

The panel then turned to legal challenges when state-owned enterprises are involved. Jakovic explained that the attribution of conduct to a state is governed by the International Law Commission's Articles on State Responsibility. Whether a state-owned entity's actions can be attributed to the state depends on elements such as state control, legal authority, and the operational context. This has implications for whether a claim qualifies as an investment treaty claim or only as a contractual or commercial dispute.

Agis Georgiades also examined sovereign immunity and enforcement challenges. Even with a favourable arbitration award, investors often struggle with execution against state assets due to immunity protections. While recognition and enforcement may be possible under the New York Convention, actual recovery can be frustrated if assets are immune. Thus, obtaining an explicit waiver of immunity for execution in contracts is vital. Practical enforcement can involve asset tracing and navigating local immunity laws.

In summary, the discussion highlighted the rise of resource nationalism amid global shifts in energy and politics, the evolving investor tools for legal protection, and the procedural and legal hurdles to enforcing rights against sovereign states and their entities. The conversation underscored the importance of strategic structuring, timely planning, and nuanced understanding of both international and domestic legal frameworks.

Day Two

Panel Session 1

North Africa West to East: Opportunities and Challenges

Lady Olga Maitland - moderator

Matthew Anderson

Mark Marshall

Rym Loucif

Emmanuel Dupuy

Dr Laurence Franc-Menget

Moderated by Lady Olga Maitland of the Algeria British Business Council, this panel explored political, legal, and investment dynamics across North Africa, from Mauritania to Egypt, amidst escalating geopolitical tensions, including recent events in Israel that raised wider concerns about global and regional stability. The session highlighted the rising importance of arbitration and conflict resolution in an increasingly complex landscape, particularly where state involvement and long-running disputes are concerned.

Emmanuel Dupuy, President of the Institute for European Perspective and Security Studies, opened with an analysis of the Israeli-Iranian conflict. Though not directly affecting North Africa, he stressed that regional events are interconnected. Dupuy referenced Morocco's strategic position within the Abraham Accords and pointed out the growing disconnect between leadership decisions and public opinion in Arab states. He argued that Iran had lost significant influence and that the traditional concept of "North Africa" no longer fully applies. Instead, he proposed an "Atlantico-African" view from Tangiers to Cape Town and an "Indo-Pacific" outlook stretching from Cairo to South Africa. He advocated for "arbitration diplomacy" as an essential mechanism where state diplomacy is ineffective, especially as countries struggle with integration and governance. Dupuy also addressed criticism of neo-colonialism, explaining France's evolving role from direct military involvement to protecting business interests and offering security cooperation.

Matthew Anderson of TVET UK and Chair of the Mauritanian British Business Council stressed the importance of rigorous due diligence and legal safeguards. Drawing from experience, he cautioned against relying solely on goodwill and informal referrals, advising British businesses to adopt a more structured “bells and braces” contractual approach.

Dr Laurence Franc-Menget of Herbert Smith Freehills spoke about the prevalence of international arbitration in Algeria, Tunisia, Morocco, and Mauritania. She noted that Sonatrach, Algeria's national energy company, is experienced in arbitration and open to amicable dispute resolution. She distinguished between disputes stemming from political or regulatory changes—such as windfall taxes, which are difficult to anticipate—and more common construction-related issues. Her advice included conducting a realistic case assessment, understanding the broader national context, and maintaining a balance between negotiation and the strategic use of arbitration as leverage.

Rym Loucif of Loucif + Co addressed perceptions of Algeria, challenging its reputation by highlighting strong investment opportunities, particularly in hydrocarbons. She explained that while initial money transfers may be slow due to compliance, subsequent transfers are smooth, especially in sectors exempt from foreign exchange controls. Since 2020, Algeria has lifted most investment restrictions, allowing 100 percent foreign ownership in many sectors. She emphasised the importance of choosing trustworthy local partners, noting that joint venture disputes often end in amicable exits at fair market value.

Mark Marshall of Albertson Solicitors concluded with a practical legal perspective, stressing the importance of anticipating future risks at the contract drafting stage, even in seemingly low-risk environments.

The session concluded by recognising the shift toward “transactional diplomacy,” where regulatory bodies like the US Office of Foreign Assets Control may influence global partnerships. As traditional diplomatic frameworks are challenged, the panel reaffirmed that arbitration and alternative dispute resolution remain essential tools for managing international business risks.

This keynote explored the changing landscape of energy dispute resolution in Africa, moving from traditional disputes to the emergence of more complex conflicts shaped by the global energy transition. The discussion addressed how issues such as clean energy development, decarbonisation, climate change, resource nationalism, the creation of African Free Trade Areas, and growing attention to human rights and ESG concerns are transforming the nature of arbitration on the continent.

Keynote

The evolving nature of Energy Arbitration in Africa: Current Trends and Issues Arising - Adedoyin Rhodes-Vivour

Delivered by Adedoyin Rhodes-Vivour, the keynote examined these developments through the lens of both legal practice and broader policy shifts. Rhodes-Vivour highlighted the paradox of Africa's immense energy resources—ranging from oil and gas to an estimated 40 percent of global solar potential—against the backdrop of widespread energy poverty. Despite this

abundance, only 10 percent of the continent's renewable energy potential has been harnessed, and many African nations still rank among the most energy-poor globally.

She noted that the continent is witnessing a surge in exploration and energy infrastructure projects, including major developments in countries such as Egypt, South Africa, Nigeria, and Kenya. However, this growth has also led to an increase in disputes. Older contracts and regulatory frameworks are increasingly clashing with new climate policies, ESG standards, and international expectations, creating legal friction and uncertainty.

One key theme was the resurgence of resource nationalism. Rhodes-Vivour explained that African states are asserting greater control over natural resources to ensure economic benefits for their citizens. This shift is reflected in amended mining and energy legislation, the introduction of local content requirements (such as in Nigeria and Senegal), and the revocation or renegotiation of existing licences, often following political transitions.

The keynote also addressed governance and human rights concerns, with examples including longstanding disputes in the Niger Delta and growing scrutiny of high-profile projects like the Total LNG development in Mozambique. Rhodes-Vivour stressed that these issues are becoming central to arbitration, particularly as stakeholders demand more sustainable and socially responsible energy practices.

Despite the challenges, she reaffirmed arbitration's central role in resolving energy disputes in Africa. However, she called for significant reforms to ensure fairness and inclusivity. She noted the underrepresentation of African professionals in arbitral tribunals, despite the continent being a major generator of disputes. Initiatives such as the African Promise and Nigeria's National Arbitration Policy were cited as important steps toward addressing this imbalance.

Rhodes-Vivour also emphasised the importance of strengthening African arbitral institutions and increasing the continent's influence in shaping international arbitration standards.

In closing, she stressed that Africa's role in the global energy transition is pivotal. As the continent confronts complex disputes rooted in both legacy contracts and emerging sustainability obligations, arbitration and alternative dispute resolution must evolve in parallel. Innovation, inclusion, and reform will be key to ensuring that energy justice, economic equity, and legal certainty underpin Africa's path forward.

Lecture

Leading Without Authority- Paul Nanson CB CBE

Major General Paul Nanson CB CBE delivered a powerful lecture on the realities of leadership in complex, high-pressure environments, drawing on his experience as Deputy Commander of Regional Command South-West in Helmand, Afghanistan. His reflections provided a practical perspective on leading without formal authority, building influence, and managing competing agendas—lessons of growing relevance across sectors, including law.

Framing leadership as a “wicked challenge,” Nanson described the evolving demands placed on those in leadership roles. He emphasised that success increasingly depends on the ability to influence diverse stakeholders, navigate cultural sensitivities, and remain agile amid uncertainty. In a world shaped by instant media and global scrutiny, leaders must be both visible and accountable, able to adapt quickly while maintaining purpose.

Reflecting on his time commanding multinational operations in Afghanistan, Nanson highlighted the complexity of the drawdown phase, which involved transitioning responsibility to Afghan institutions, managing infrastructure development, and working to sustain public trust. All while operating under continuous threat from insurgent forces. He explained that outcomes in such environments are rarely determined by rank alone, but by trust, communication, and the ability to negotiate with multiple actors under pressure.

A key message was the importance of empowering leadership at all levels. Nanson shared examples of junior officers tasked with making decisions carrying strategic weight, underlining the need for clarity of mission and shared values across the team. Leadership, he argued, is not about authority, it is about understanding, enabling, and influencing.

He identified three enduring leadership priorities: understanding the system in which one operates, creating space for others to lead, and appreciating the power of personal influence. These principles, he suggested, are as relevant to legal professionals and business leaders as they are to the military.

In closing, Nanson acknowledged the deep frustrations surrounding the long-term outcome in Afghanistan, noting the sense of unfulfilled expectations. He emphasised, however, the continued importance of reflection, learning, and sustained investment in leadership, particularly in sectors where technical excellence alone is insufficient.

Lecture

Energy Disputes in the Middle East & Africa: An Institutional Perspective from DIAC - Christoffer Hedberg

Christoffer Hedberg provided an institutional overview of the Dubai International Arbitration Centre (DIAC), the largest arbitration institution in the Middle East. DIAC administers disputes involving parties from across the Middle East, Africa, and South Asia under both its own rules and UNCITRAL rules, and also offers mediation and conciliation services.

He noted that DIAC has seen steady growth in recent years, registering over 250 new cases annually. In 2023, it registered 355 cases, including 33 administered arbitrations. Construction disputes made up approximately 60% of the caseload, while energy disputes, primarily in oil and gas, ranked second, accounting for 10% of all cases.

Most energy-related disputes handled by DIAC involved complex, multi-party and multi-contract arrangements, particularly in the downstream sector such as oil and gas distribution and shipment. These cases often involved cross-border elements, with parties from various

jurisdictions and contracts like construction agreements, shareholder agreements, and most frequently, sale and purchase agreements.

Hedburg highlighted the significance of DIAC's 2022 rule revisions. The updated rules introduced key provisions for multi-party and multi-contract disputes, enabling consolidation and joinder- crucial features for resolving energy sector disputes involving complex contract networks. He also pointed to the centre's default seat provision, which now designates the Dubai International Financial Centre (DIFC), a common law jurisdiction, as the default arbitration seat when none is specified. This aligns with international parties' preferences and promotes procedural clarity.

In conclusion, Hedburg affirmed that DIAC has emerged as a leading forum for resolving complex, cross-border energy disputes. Its continued growth and rule enhancements reflect its commitment to meeting the evolving needs of the international energy arbitration community.

Panel Session 2

Harmonising Dispute Resolution in Africa: Towards an African Energy Arbitration Protocol?

Prof Emilia Onyema – moderator

Prof Kariuki Muigua

Julius Nkafu

Manal Aboujtita

This panel offered a comprehensive and forward-looking exploration of the challenges and opportunities involved in harmonising dispute resolution frameworks across African jurisdictions, particularly in the energy sector. With cross-border projects increasing and foreign investment on the rise, especially from China, African states face growing pressure to establish effective, accessible, and culturally grounded mechanisms for resolving disputes.

A central theme was the surge in both investor-state and intra-African disputes, many of which emerge from energy infrastructure developments. These disputes are often rooted in issues such as regulatory unpredictability, land use conflicts, and inadequate community engagement, especially the failure to obtain Free, Prior, and Informed Consent. While African states have historically favoured negotiation and diplomacy over litigation, participants underscored the need for enforceable mechanisms. Arbitration, while less commonly used within Africa, was acknowledged as a vital complement to diplomatic efforts, offering finality and legal certainty.

Legal academic and arbitrator Emilia Onyema noted that inefficiencies in many African jurisdictions continue to push cases to foreign venues like London, even when the underlying issues relate directly to African projects. In contrast, arbitrator and barrister Julius Nkafu challenged the idea of creating a new continent-wide energy arbitration protocol. He argued that most African states already have national arbitration laws and several regional mechanisms, such as those under the Common Market for Eastern and Southern Africa. Rather

than creating new instruments, he advocated for improving and properly utilising existing ones, pointing out that nearly 95 arbitration centres already operate across Africa.

The panel also considered investor perspectives. Manal Aboujtila, a senior partner at Rahim Invest, emphasised the importance of creating a harmonised legal framework to provide regulatory stability and build investor confidence. While Africa remains an attractive destination for energy investment, sudden policy shifts and fragmented legal environments continue to deter potential investors. Aboujtila advocated for a unified approach that includes more cases being arbitrated within the continent and the development of credible regional arbitration hubs. Cities like Cairo, Lagos, and Cape Town were identified as viable candidates, with existing legal infrastructure and potential for regional leadership. However, she stressed that trust and capacity building were just as important as infrastructure.

Environmental, Social, and Governance standards were also discussed as increasingly central to dispute resolution in the region. Disputes frequently arise where projects overlook environmental concerns or fail to share benefits with affected communities. Integrating customary law and traditional dispute resolution practices was proposed as a means of bridging the gap between formal legal systems and local expectations.

Mediator Kariuki Muigua concluded by highlighting the role of technology and professional development in strengthening dispute resolution across Africa. He emphasised the need for a long-term vision that combines legal innovation with community inclusion and sustainability.

Rather than focusing on creating new protocols, the panel advocated for better coordination, reform, and trust-building within existing structures. Sustainable dispute resolution in Africa must balance investor protection, legal certainty, and the rights and voices of local communities.

Lecture

The Emergence of a New Energy Law in Corporate Governance in Europe, Middle East and Africa, and the Transformation of Dispute Resolution and Arbitration in the Energy Sector in these regions - Philippe Fortuit

In a lecture delivered by Philippe Fortuit (Philippe Fortuit Avocats), the evolving landscape of energy law and corporate governance in response to climate change was thoroughly explored. Fortuit emphasised that climate change, primarily driven by fossil fuels, has become a central concern for corporate governance. Southern countries, particularly in the Middle East and North Africa (MENA), are especially vulnerable, facing rising temperatures and water scarcity. This demands greater private sector involvement in adaptation. Corporate social and environmental responsibility (CSR) is therefore becoming a vital element of corporate governance.

A new energy law is emerging, particularly given the ties between Europe, the Middle East, and Africa. In Europe, the Corporate Sustainability Reporting Directive (CSRD) mandates stricter non-financial reporting under a "double materiality" principle, assessing both financial impact and societal and environmental influence. These rules also apply to foreign companies operating in Europe. By contrast, most MENA and African countries follow a "single materiality"

approach, though Botswana aligns with the EU's framework, and the Global Reporting Initiative (GRI) standards are widely used in the region.

Beyond reporting, companies are facing new duties to act. France has led with laws such as the PACTE Law and a duty of care law requiring large firms to prevent human rights and environmental violations across their value chains. These rules, alongside the EU's Corporate Sustainability Due Diligence Directive (CSDDD), directly or indirectly affect companies in MENA and Africa. A new legal category of "ecological damage" has also emerged, carrying serious liabilities.

These changes are transforming dispute resolution. France has created a specialised chamber within the Paris Court of Appeal, and shareholder activism is increasing. The ICC remains a key venue for energy arbitration in the region, with updated 2021 rules improving efficiency.

Panel Session 3

Energy's interface with Human Rights

Mispa Awasum- moderator

Hind Al Aissi

Godson Ugochukwu SAN

Noreen Kidunduhu

Paul Sills

The final panel, titled Energy's Interface with Human Rights, examined the multifaceted impact of energy sector investments and activities on human rights. Dr Mispa Awasum, the panel moderator, is known for her work promoting alternative dispute resolution methods in Africa and her expertise in investment law. In her opening remarks, she emphasised that energy projects must now be evaluated not only in economic terms but also through the lens of social responsibility and human rights. In developing regions where many energy investments are concentrated, she noted that issues such as environmental sustainability, community participation, and fair income distribution must be safeguarded through legal regulations and international arbitration practices rather than being treated as voluntary ethical principles.

One of the first speakers, Hind Al Aissi, a public law and investment arbitration expert registered with the Paris and New York Bar Associations, shared her experience in energy-related disputes across the Middle East and Africa. She explained that such investments often involve violations of fundamental rights, including land ownership, displacement, and environmental harm. Al Aissi argued that human rights due diligence must be integrated into all phases of investment contracts. While human rights are often not explicitly addressed in inter-state disputes or under doctrines such as sovereign immunity, these boundaries are increasingly blurred in the energy sector. She also highlighted legal gaps at the intersection of energy investments and international sanctions.

Noreen Kidunduhu, founder of a Kenya-based law firm and a recognised expert in energy mediation, stressed that extractive and infrastructure projects in Africa often occur under weak governance and without effective community participation. This, she said, hampers pre-

arbitration dispute resolution and the consideration of human rights issues. Kidunduhu argued that existing arbitration rules are inadequate for addressing large-scale environmental or public health harms and called for the integration of environmental, social, and governance (ESG) criteria into arbitral decision-making.

Paul Sills underscored the importance of dispute prevention and early stakeholder engagement. He observed that many disputes arise not from technical issues but from broken trust with communities. According to Sills, viewing human rights compliance as a tool for conflict prevention makes energy projects more sustainable in the long term. Genuine social impact assessments, he added, can significantly reduce the risk of disputes.

Godson Ugochukwu focused on the lack of regional legitimacy in current arbitration practices, which he argued are shaped by Western norms. He called for more context-sensitive arbitration models that reflect the socio-political realities of host states. Ignoring these factors, he warned, risks decisions that favour investors but undermine public interest. Ugochukwu advocated strengthening local arbitration institutions and involving more local experts in arbitral panels.

The panel highlighted the human rights risks in the green energy transition, particularly in regions where rare earth minerals are extracted. Concerns included labour exploitation, environmental degradation, and property violations. The discussion emphasised that the energy transition must be guided by principles of a just transition, not just carbon neutrality.

The panel concluded with calls for mandatory human rights impact assessments, reform of arbitration processes, and inclusion of human rights experts in arbitral tribunals. Energy projects, the panellists agreed, must be framed by principles of justice, sustainability, and ethical responsibility.